IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1991 OF 2004

IN

WRIT PETITION NO.3475 OF 2004

M/s.Rathi Re-Rolling Mills
Factory & Anr. ...Applicants

Versus

Central Bank of India & Ors. ...Respondents

.....

Mr.V.B.Nighot for Petitioners.

Mr.Thakor Jariwala i/b Thakor Jariwala & Associates for Respondents.

.....

CORAM: A.M.KHANWILKAR, J.

AUGUST 26, 2004.

P.C.

1. This Application is strenuously opposed by the Counsel for the Respondent Bank. In fact, the Respondent Bank showed indulgence inspite of the order passed on June 29, 2004 and were willing to consider some amicable resolution of the dispute

between the parties. However, negotiations have failed, essentially because the Applicants are insisting for a letter from the Respondent Bank mentioning certain terms which are at variance with the contents of the letter which was agreed to, between the parties on the earlier occasion. Besides, it is pointed out that the Applicants are only gaining time. Inasmuch as the applicants were required to pay the amount in terms of order dated 17th May 2004 on the admission of the Applicants of their entire dues to the extent of Rs.3,48,00,000/- (Rupees Three Crores Forty-eight Lakhs), although the claim of the Respondent Bank as of date of the outstanding dues of the Applicants is in the sum of over Rupees Twenty Crores. As such it is not possible to show any further indulgence.

2. In my order dated 29th June 2004, similar request was made on behalf of the Applicants, which is considered and disposed of. Even the direction contained in order dated 29th June 2004 has not been fully complied with so far. Indeed, the Applicants have deposited certain amounts which is to the extent of Rs.25,00,000/- (Rupees Twenty-five

Lakhs) with the Respondent Bank and Rs.20,00,000/- (Rupees Twenty Lakhs) lying in the account of the Debts Recovery Tribunal, whereas, the direction in terms of order dated 17th May 2004 was to pay a sum of Rs.87,00,000/- (Rupees Eighty-seven Lakhs) within a period of six weeks from that date.

3. In my opinion, no further indulgence can be shown and the Application will have to be rejected. Counsel for the Applicants, however, submits that if one more indulgence is given till end of October 2004, the Applicants will make effort to deposit the amount specified in the order dated 17th May 2004. However, it is not possible to accede to that request. Hence, this Application fails and the same is rejected.

4. It is made clear that it will be open to the Debts Recovery Tribunal to proceed with the pending matter in accordance with law. It will also be open to the Respondent Bank to take recourse to such remedy as may be permissible by law for recovery of its dues.

A.M.KHANWILKAR, J.